

AMENDED IN ASSEMBLY APRIL 9, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2562

Introduced by Assembly Member Setencich

February 21, 1996

An act to amend Sections 42803, 42804, 42807, 42809, and 42815 of the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2562, as amended, Setencich. Fruits, nuts, and vegetables standards.

(1) Existing law authorizes the Secretary of Food and Agriculture to adopt quality and maturity standards for fruits, nuts, ~~or~~ and vegetables.

Existing law also requires the secretary to create an industry-funded standardization program, and authorizes an assessment on the handlers of commodities to implement and enforce the program. Existing law, ~~until a specified date~~, also ~~allowed~~ *allows* producers of commodities to file a petition requesting that a commodity be excluded from the application of the provisions of the standardization program. *These provisions are to be repealed on January 1, 1997.*

This bill would extend the repeal date of the existing law until January 1, 2000. Since a violation of these provisions is a misdemeanor, this bill would impose a state-mandated local program by continuing in existence until January 1, 2000, a crime that otherwise would be repealed.

This bill, commencing January 1, 1997, and until ~~90 days thereafter~~ *March 31, 1997*, would ~~once again~~ authorize producers of commodities to file a petition requesting that a commodity be excluded from the application of the provisions of the standardization program.

(2) Existing law requires the secretary to appoint a committee to provide recommendations to the secretary on all matters pertaining to the standardization program and authorizes the committee to set assessment rates to be paid by the handlers of the commodities.

This bill would authorize committee members to participate in meetings of the committee by means of telephone conference calls.

~~(3) Existing law provides that the standardization program as described in paragraphs (1) and (2) above is to be repealed as of January 1, 1997.~~

~~This bill would extend the repeal date of the existing law until January 1, 2000. Since a violation of these provisions is a misdemeanor, this bill would impose a state-mandated local program by continuing in existence until January 1, 2000, a crime that otherwise would be repealed.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42803 of the Food and
2 Agricultural Code is amended to read:
3 42803. (a) Commencing on January 1, 1997, and ~~for~~
4 ~~90 days thereafter~~ *until March 31, 1997*, producers of
5 commodities subject to this article may file a petition with
6 the secretary requesting that the commodity be
7 exempted from this article.

(b) Upon a finding by the secretary that the petition represents not less than 51 percent of the producers of the commodity who produce not less than 51 percent of the total quantity of the commodity marketed in the preceding marketing season, the secretary shall do all of the following:

(1) Declare the commodity exempt from this article.

(2) Immediately repeal all regulations pertaining to the commodity adopted by the secretary pursuant to this division.

(3) Make a determination concerning a refund of any assessments collected pursuant to this article.

(c) Commodity exemptions granted pursuant to this section shall be effective immediately on the date of the finding specified in subdivision (b).

SEC. 2. Section 42804 of the Food and Agricultural Code is amended to read:

42804. (a) ~~Commencing on January 1, 1997, and for 90 days thereafter~~ *On and after March 31, 1997*, the secretary shall exempt any commodity subject to this article and repeal all regulations pertaining to the commodity adopted by the secretary pursuant to this division if:

(1) A written petition requesting exemption is filed with the secretary during the period commencing July 1 and ending December 31 of any year.

(2) The secretary finds that the petition represents not less than 51 percent of the producers directly affected who have produced not less than 51 percent of the total quantity of the commodity marketed in the preceding marketing season.

(3) The petition, prior to being submitted to the secretary, was circulated among the producers directly affected for a period not exceeding 90 days and was on a form approved by the secretary.

(b) Exemptions granted under this section shall be effective on July 1 following the year in which the petition is filed with the secretary.

(c) Any costs incurred by the department in processing any petition for exemption filed pursuant to

1 this section shall be borne by the producers representing
2 the commodity for which the petition is filed.

3 (d) This section also applies to producers of any
4 commodity who request the secretary to rescind a
5 previously granted exemption.

6 (e) All producers directly affected by this section shall
7 provide the following information to the secretary upon
8 filing of the written petition requesting exemption:

9 (1) The correct name and address of each producer or
10 handler.

11 (2) The quantity of each commodity produced by the
12 producer during the previous marketing season.

13 (f) The secretary also may require handlers of
14 commodities subject to this article to report quantities
15 received from each producer in the previous season.

16 (g) Any determination of compliance with this section
17 may be based upon information provided by producers or
18 handlers of commodities subject to this article. Failure or
19 refusal to provide that information within the specified
20 time does not invalidate the secretary's findings.

21 SEC. 3. Section 42807 of the Food and Agricultural
22 Code is amended to read:

23 42807. Notwithstanding Section 42806, on January 1,
24 1997, and thereafter until altered, rescinded, or
25 eliminated, the assessment rate for those commodities
26 that are not otherwise subject to a mandatory inspection
27 fee shall be three mills (\$0.003) per container and the
28 assessment rate for those commodities that are otherwise
29 subject to a mandatory inspection fee shall be one mill
30 (\$0.001) per container.

31 SEC. 4. Section 42809 of the Food and Agricultural
32 Code is amended to read:

33 42809. (a) The secretary shall appoint a committee
34 pursuant to subdivision (b) to provide recommendations
35 and advice on all matters pertaining to the
36 implementation and enforcement of this division.

37 (b) The committee shall be composed of 13 voting
38 members who have a financial interest, either personal or
39 through their employment, in a commodity represented.
40 The secretary shall appoint the members of the

1 committee from a list of nominees provided by the
2 commodity groups subject to this article, as follows:

3 (1) Four members shall be appointed from the fresh
4 fruit commodity group consisting of oranges, other citrus
5 fruits, strawberries, and table grapes.

6 (2) Two members shall be appointed to represent
7 other fresh fruit commodities.

8 (3) Four members shall be appointed from the fresh
9 vegetable commodity group consisting of broccoli,
10 tomatoes, and lettuce.

11 (4) Two members shall be appointed to represent
12 other vegetable commodity groups.

13 (5) One member shall be appointed from other
14 commodity groups subject to this article.

15 (6) A county agricultural commissioner may be
16 appointed by the secretary as a nonvoting member.

17 (c) The committee shall meet at the request of the
18 secretary, the committee chairperson, or upon the
19 request of four committee members.

20 (d) Any committee member who represents a
21 commodity that has been exempted from the application
22 of this article shall be replaced with a member chosen to
23 maintain the balance between the commodity groups.

24 (e) The committee shall appoint its own officers,
25 including a chairperson, one or more vice chairpersons,
26 and any other officers it deems necessary.

27 (f) Committee members may participate in meetings
28 of the committee by means of telephone conference calls.

29 SEC. 5. Section 42815 of the Food and Agricultural
30 Code is amended to read:

31 42815. This article shall remain in effect only until
32 January 1, 2000, and as of that date is repealed, unless a
33 later enacted statute, ~~that~~ *which* becomes effective on or
34 before January 1, 2000, deletes or extends the dates on
35 which it becomes inoperative and is repealed.

36 SEC. 6. No reimbursement is required by this act
37 pursuant to Section 6 of Article XIII B of the California
38 Constitution because the only costs that may be incurred
39 by a local agency or school district will be incurred
40 because this act creates a new crime or infraction,

1 eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition
4 of a crime within the meaning of Section 6 of Article
5 XIII B of the California Constitution.

6 Notwithstanding Section 17580 of the Government
7 Code, unless otherwise specified, the provisions of this act
8 shall become operative on the same date that the act
9 takes effect pursuant to the California Constitution.

